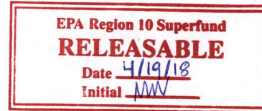




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KG/CC

500 East Broadway  
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Vancouver, Washington 98660-3324  
OFFICE 360.699.4771  
FAX 360.694.6413

Jeffrey C. Miller  
jeff.miller@millernash.com  
(360) 699-4771

April 29, 2011

Ms. Marilyn K. Kopp  
Devonshire  
1851 East First Street, Suite 1400  
Santa Ana, CA 92705

Subject: Insured: Kaiser Gypsum Company, Inc. ("Kaiser Gypsum")  
Insurer: Transamerica Premier Insurance Company ("Transamerica")  
Policy No.: USE 1399-7785  
Claim: Lower Duwamish Waterway Superfund Site

Dear Ms. Kopp:

We represent Kaiser Gypsum with respect to its claim for insurance coverage for any liability it has related to the Lower Duwamish Waterway Superfund Site ("Site").

Kaiser Gypsum tendered a claim for coverage to Transamerica by letter dated December 21, 2010, (attached). It has yet to receive acknowledgement from Transamerica. We also represent an affiliated company, Kaiser Cement Corporation ("Kaiser Cement"), with respect to insurance coverage for potential liability at the Site. Kaiser Cement tendered to Transamerica by letter dated December 22, 2010, and received an acknowledgement letter from you dated February 24, 2011.

Even though Kaiser Cement and Kaiser Gypsum are affiliated companies, the claims tendered to Transamerica by Kaiser Cement and Kaiser Gypsum are separate and distinct claims for coverage under Transamerica Policy No. USE 1399-7785. This is because Kaiser Gypsum and Kaiser Cement are separate legal entities that owned and operated facilities at different locations on the Lower Duwamish Waterway and received separate Section 104(e) information requests from the EPA. The two entities have separately responded to EPA's information request and continue to incur separate and distinct defense costs. Accordingly, please acknowledge Kaiser Gypsum's claim tender and assign a separate reference number to its claim for coverage.

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Ms. Marilyn K. Kopp  
April 29, 2011  
Page 2

Based on your February 24, 2011, letter regarding Kaiser *Cement's* claim for coverage, we anticipate that you will want a copy of the EPA's 104(e) request to Kaiser Gypsum and Kaiser Gypsum's preliminary response. Accordingly, we enclose a CD which includes these documents. As we explained in the December 21, 2010, tender letter, Kaiser Gypsum was only able to prepare a preliminary response to EPA's request because there are voluminous historical records that it needs to review in order to prepare a complete response. It is currently reviewing those records and will be preparing a supplemental response to the EPA.

If you have any questions, please e-mail me at [jeff.miller@millernash.com](mailto:jeff.miller@millernash.com) or call me or Steve Hill at 360-699-4771.

Regards,



Jeffrey C. Miller

Enclosures

KG2005760



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Steven F. Hill, P.C.  
Admitted in Washington and Oregon  
steve.hill@millernash.com  
(360) 619-7004 direct line

December 21, 2010

**BY CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Fairmont Insurance Company  
250 Commercial Street, Suite 5000  
Manchester, NH 03101

Fairmont Insurance Company  
c/o CT Corporation System  
Attn: Jere Keprios  
818 West Seventh Street  
Los Angeles, CA 90017

Subject: Insured: Kaiser Gypsum Company, Inc.  
Insurer: Transamerica Premier Insurance Company  
Policy No. (Periods): USE 1399-7785 (05/01/84-04/01/85)  
Claim: Lower Duwamish Waterway Superfund Site

Dear Ladies and Gentlemen:

We represent Kaiser Gypsum Company, Inc. ("KGC"), in connection with the necessary investigation that it is undertaking in order to respond to the United States Environmental Protection Agency's ("EPA") February 19, 2010 request for information served on KGC pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9604(e). Section 104(e) of CERCLA obligates KGC to respond to EPA's multi-part questions relating to KGC's historical ownership and operations on riparian property that KGC formerly owned along the Lower Duwamish Waterway ("LDW") in Seattle, Washington. The LDW is a waterway that has been listed on the CERCLA National Priorities List as a federal Superfund site (the "LDW Superfund Site") due to the release or substantial threat of release of hazardous substances in or around the waterway. Compliance with the EPA's Section 104(e) information request is required by law, and failure to respond may subject KGC to an EPA enforcement action and civil penalties of up to \$37,500 per day.

**KG2005761**



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Fairmont Insurance Company  
December 21, 2010  
Page 2

KGC is in the process of investigating its historical connection with the LDW. To date, we have only been able to confirm that KGC owned property and operated a gypsum plant at 5931 East Marginal Way S. in Seattle, Washington on the eastern side of the LDW (the "KGC Property") from 1952 to 1978. To date, KGC has not located any former officers or employees of KGC with knowledge of its operations at the KGC Property. On June 23, 2010, KGC filed a preliminary response to EPA's Section 104(e) information request based on the information we were able to gather from real property records, tax records, and certain historical documents that were previously gathered by KGC's defense counsel during KGC's defense of asbestos litigations.

We understand that at or around the time that it ceased active business operations, KGC collected certain of its business records and sent them to storage facilities in California. These documents cover a variety of historical information, and are believed to contain documents related to historical KGC operating facilities in multiple states, including Washington. KGC was able to locate certain indexes of the California documents, but these indexes were not created with EPA's Section 104(e) information request in mind. Therefore, it is very difficult to determine the extent of documents that might contain information responsive to EPA's Section 104(e) information request or the scope of document review that might be necessary to search for such documents. We do know, however, that there are approximately 10,000 boxes of historic documents stored in California.

During preparation of KGC's response to the Section 104(e) information request, we contacted EPA and informed EPA that these historical records existed. We also indicated to EPA that, given the volume of these historical documents, we would not be able to review them by the deadline EPA had imposed for KGC's response. EPA requested that KGC file a preliminary response to the Section 104(e) information request by its deadline using the information and documents readily available to KGC. EPA further requested that KGC agree to conduct a thorough review of the historical records and supplement its response to the Section 104(e) information request in the next few months.

At this time, our office has conducted a preliminary review of the available box indexes for the California documents and it is clear that some boxes may contain information responsive to EPA's Section 104(e) information request. In order to fully respond to EPA's Section 104(e) information request and avoid the imposition of liability on KGC for failing to have done so, counsel for KGC will need to conduct extensive searches of the California documents over the next few months and will need to supplement KGC's preliminary response, as appropriate, based on any responsive

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Fairmont Insurance Company  
December 21, 2010  
Page 3

information identified as a result of such searches. In sum, KGC needs to undertake the process of conducting an investigation of the available information in order to complete its legal obligation to respond to EPA's Section 104(e) information request.

At this time, we do not know if KGC may have contributed to any contamination of the LDW Superfund Site. But as a former owner of property within the boundaries of the LDW Superfund Site, KGC is potentially liable for any contamination of the LDW Superfund Site that may have occurred during KGC's ownership and operation of the KGC Property. In order to assess its potential liability and to comply with its legal obligation to respond to EPA's Section 104(e) information request, KGC is obligated to complete its review of the historical corporate documents stored in California.

Based on our records, Transamerica Premier Insurance Company ("TIG") sold excess and/or umbrella liability insurance policies to KGC or its parent Hanson Permanente Cement, Inc. (formerly known as Kaiser Cement & Gypsum Corporation and Kaiser Cement Corporation), naming KGC as an additional insured, during the period from 1984 through 1985. The specific TIG policy that we have located to date is listed above.

The EPA's Section 104(e) information request requires KGC to defend itself from any claims that it is a liable party for the contamination discovered in the LDW Superfund Site. Should further review of historical records establish a basis for KGC's potential liability for contamination of the LDW Superfund Site, we expect that EPA will name KGC as a potentially responsible party for the LDW Superfund Site. Accordingly, on behalf of KGC, we hereby put TIG on notice of this potential claim and request that TIG provide coverage for this claim and any other claims against KGC that are related to the LDW Superfund Site.

If you have any questions, please e-mail me at [steve.hill@millernash.com](mailto:steve.hill@millernash.com) or call me at 360.699.4771.

Very truly yours,

Steven F. Hill, P.C.

cc: Lonzie Johnson

KG2005763

7160 3901 9848 8114 0219

**TO:** Fairmont Insurance Company  
250 Commercial Street, Suite 5000  
Manchester, NH 03101

**SENDER:** MN/Hill/Ledwith

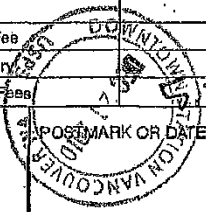
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818 West Seventh Street  
Los Angeles, CA 90017

**SENDER:** MN/Hill/Ledwith

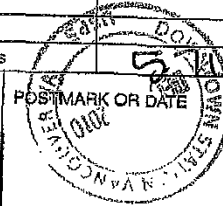
**REFERENCE:** 030391-0008/0009

PS Form 3800, January 2005

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